

## MILPITAS PLANNING COMMISSION AGENDA REPORT

---

Category: New Business

Report Prepared by: Troy Fujimoto

Public Hearing: Yes: \_\_\_\_\_ No:   X  

Notices Mailed On: N/A

Published On: N/A

Posted On: N/A

---

**TITLE:** **SITE AND ARCHITECTURAL REVIEW AMENDMENT (P-SA2003-45)**

**Proposal:** Request to install a 6-foot high property fence along the rear and sides of the property in the hillside area

**Location:** 638 Quince Lane

**APN:** 029-59-009

**RECOMMENDATION:** **Approval with conditions**

**Applicant:** Kim and Phil Graham, 723 Berkshire Place, Milpitas, CA 95035

**Property Owner:** Kim and Phil Graham, 723 Berkshire Place, Milpitas, CA 95035

**Previous Action(s):** Variance, Time Extension, and Hillside residential approval

**General Plan Designation:** Hillside Low (up to 1.0 units per gross acre)

**Present Zoning:** Single Family Residential with Hillside Combining District ("R1-H")

**Existing Land Use:** Vacant lot (Hillside home under construction)

**Agenda Sent To:** Applicant/owner

**Attachments:** Site and architectural plans  
Letter from applicant dated March 24, 2003  
Photos of existing fences in nearby hillside area

**PJ No.** N/A

---

\*5

## **BACKGROUND**

In 1986, the Planning Commission approved a hillside subdivision that incorporated the subject parcel that was amended in 1988. In April 2000, the City Council approved a variance and a hillside residential home at 638 Quince Lane. The variance was allowed to exceed the impervious area, in part due to a private driveway that crosses the site.

When the project was originally approved, a proposed fence was conditioned to return to the Planning Commission for approval. The applicant is now applying for approval of a revised fence for the site and to satisfy the original condition.

### **Site and Area**

The site is located at the base of the foothills, off of Evans Road, which is located east of the crestline within the Hillside zoning district (R1-H). The subject property is 2.17 acres in area and located on the east side of Quince Lane. The southern portion of the property is located at the intersection of Quince Lane and Evans Road. The site slopes from the north to the south, getting steeper as it nears Evans Road. There is also a private paved access road running along the edge of the property. Surrounding uses include valley floor residential homes and other hillside single-family homes.

## **PROJECT DESCRIPTION**

The application is submitted pursuant to Section 54.11-5 (Fences, Regulations for the Hillside) of the zoning ordinance. The applicant is requesting approval to construct a new perimeter/pool fence at the rear and sides of the property. The location of the fence will be near the rear of the house along the rear property line and will attach to the house to enclose the rear yard. Gates will be included to provide access from the front yard to the rear area. The proposed six-foot high fence will be painted black and will consist of wooden posts with steel pickets. The applicant is also proposing a low fence (three and a half feet high), similar to the 6-foot tall fence, along a portion of the driveway that would be attached to the top of an existing retaining wall, which will provide protection and safety from the neighboring property's slope.

## **ISSUES**

### **Conformance with the General Plan**

The proposed use does not conflict with any General Plan Policies, and is consistent with Implementing Policy 2.a-I-18. This policy is intended to ensure that development in the hillside area is in keeping with the natural character of the hillside and that views are protected. The proposed fence will use natural materials to minimize the appearance of metals and will be similar to other fences in the area to meet the intent of this policy.

### **Conformance with the Zoning Ordinance**

The proposed six (6) foot high fence is, in part, required as part of the building permit process. The Uniform Building Code (UBC) requires a minimum of a five-foot high fence to be constructed around swimming pools. Thus, the applicant is requesting approval of a six foot fence to comply with the UBC. As per the zoning ordinance, the Planning Commission can approve fence heights exceeding 54 inches (4½-feet) and material other than wood. The

applicant is proposing a fence with wooden posts and steel pickets. This type of fence and fencing material is similar to other fences throughout the hillside area. In regards to color, there are existing hillside fences of varying colors including red, black, brown, white, and gray. Thus, the black colored fence will be in keeping with the area.

### **Conformance with CEQA**

The proposed project is categorically exempt from further environmental review pursuant to Class 1, Section 15301 ("Existing Facilities") of the California Environmental Quality Act (CEQA) Guidelines.

### **RECOMMENDATION**

Recommend approval by the Planning Commission of the Site and Architectural Review Amendment (P-SA2003-45) based on the Findings and Recommended Special Conditions listed below:

### **FINDINGS**

1. The proposed project is consistent with the General Plan in that the fence's colors and materials are in keeping with previously approved fences in the hillside area and makes use of natural materials.
2. The proposed project is consistent with the zoning ordinance, in regards to hillside development standards.
3. The proposed project is categorically exempt from California Environmental Quality Act review as per CEQA Section 15301 (Existing Facilities).

### **RECOMMENDED SPECIAL CONDITIONS**

1. This Site and Architectural Review Amendment No. P-SA2003-45 is for approval of a six (6) foot tall and three and half foot tall fence as shown on approved plans dated April 23, 2003. Any modification to the fence will require a Site and Architectural Review Amendment by the Planning Commission. Any other minor modifications, as per Section 42-10-2 of the Milpitas Zoning Ordinance to approved plans may be approved by the Planning Division or Planning Commission Subcommittee. (P)
2. This project shall be conducted in compliance with all appropriate local, state, and federal laws and regulations. (P)

(P) = Planning Division

## NOTES TO THE APPLICANT

The following notes pertain to administration of the City codes and ordinances, which are not part of the Zoning Ordinance regulations. The applicant shall not consider these notes as approval from any Department. Additional requirements may be made prior to permit issuance. These notes are provided to assist in the permit process if approval is granted.

Building Department: (For further information regarding these notes, contact Veronica Valenti, 586-3241)

1. An outdoor swimming pool shall be provided with a barrier at least 60 inches in height and comply with all requirements indicated in 2002 Milpitas Municipal Code section II-10-2.07-C. Openings in the barrier shall not allow passage of a 1-3/4 inches diameter sphere.
2. Access gates shall be self-closing and have a self-latching device. Gates shall swing away from the pool as per section II-10-2.07 C-4.
3. Where a wall of the dwelling unit serves as a barrier and contains a door opening that gives access to the pool, the barrier shall comply with the exceptions indicated in 2002 Milpitas Municipal Code section II-10-2.07-C-5. One of the possible solutions is to install an alarm on all doors with direct access to the pool.

From: Kim and Philip Graham  
723 Berkshire Place  
Milpitas, CA 95035  
Daytime Phone: (408) 341-4542  
Home Phone: (408) 945-0675  
FAX: (408) 262-4593  
Email: [kimg@supercharge.com](mailto:kimg@supercharge.com)

To: City of Milpitas  
Planning Division  
455 E. Calaveras Blvd.  
Milpitas, CA 95035

Date: March 24, 2003

RE: Fence plan for 638 Quince Lane

We are requesting approval to modify the approved fence plan for a single-family hillside residence at 638 Quince Lane. The project was originally approved by the City Council on April 4, 2000, and at that time, approval was given for a fence around the pool area. When the project was originally approved, the lot was owned by Raymond and Sylvia Leung. We purchased the lot and approved plans from the Leungs in September of 2000.

The house is now nearly complete, and the pool is also nearing completion. The purpose of this request is to:

- Move the pool fence location to enclose the back part of our yard, and all accesses to the pool area, as required by building code.
- Fence a small area on the back side of the house to provide an outdoor area for our small dog during the day.
- As recommended by our landscape architect, for safety purposes, add a low fence along a retaining wall that runs parallel to our driveway. The next door neighbor's yard is nearly level with the top of this retaining wall, and this fence would avoid accidental falls in the case where someone walking toward our yard doesn't notice the drop-off.

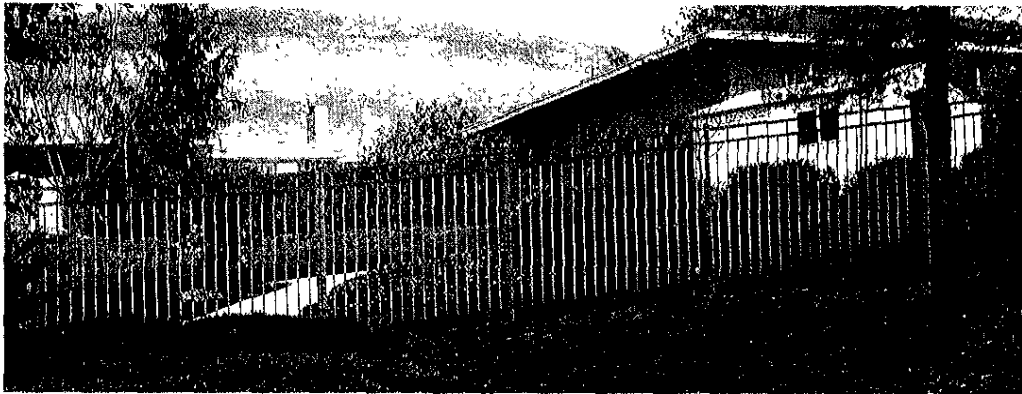
All of the proposed fencing is an openwork design as required by Hillside Ordinance and recommended by City Staff. The design and all proposed fence locations and heights are shown in the plans included with this submittal.

I would greatly appreciate it if this matter could be scheduled for the earliest possible Planning Commission meeting, as we cannot complete and use the pool until the fence is installed.

Thank-you, and please contact me if you need any further information.

*Kim L. Graham*

Kim Graham



Other  
residence  
fences on  
Quince Lane

